

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE THIRTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO: 5549 OF 2020

Between:

Mankali Laxmaiah, S/o Sayanna, Aged 39 years, Occ. Coolie, N/o H.No.6-93/A, Remaddula, Mahabubnagar, Mahabubnagar District-509206, Presently residing at H.NO,10-11-176/65, Huts, Shivalayam Road, Fathenagar, Hyderabad.

...PETITIONER

AND

1. The State of Telangana, Rep.by its Principal Secretary, Department of Home, Secretariat Building, Saifabad, Hyderabad
2. Commissioner of Police, Cyberabad, Ranga Reddy District.
3. The Station House Officer, Kukatpally Traffic Police Station, Cyberabad, Ranga Reddy District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of mandamus or any other appropriate writ or direction declaring the action of the respondent No.3 in detaining the petitioners vehicle CB 125 SHINE SPWE B DRUM motor cycle under the registration No. TS 08 FY 0434, Black Colour as illegal, arbitrary and violative of principles of natural justice and sans any sanction of law and consequently direct the respondent No.3 to forthwith release the CB 125 SHINE SPWE B DRUM motor cycle under the registration No. TS 08 FY 0434, Black Colour to the petitioner on production of registration certificate of the vehicle and proof of identity

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.3 to forthwith release the vehicle namely CB 125 SHINE SPWE B DRUM motor cycle under the registration No. TS 08 FY 0434, Black Colour to the petitioner, pending disposal of the writ petition

Counsel for the Petitioner: SRI RAMESH KUMAR PAMIDI

Counsel for Respondents: AGP FOR HOME

The Court made the following: ORDER

HON'BLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.5549 OF 2020

ORDER:

The present writ petition is filed to declare the action of Respondent No.3 in detaining the vehicle bearing registration No. TS 08 FY 0434 of the petitioner, as being illegal, arbitrary, and unconstitutional with a consequential relief to direct the 3rd respondent to release the vehicle forthwith.

2. The matter is taken up for hearing today through video conferencing and the Learned Assistant Government Pleader for Home appearing for Respondents 1 to 3 submits that the matter can be disposed of by this Court by passing order as in similar other matters.

3. The case of the petitioner is that, the petitioner who is owner of the vehicle, himself was driving the vehicle in question and that on 18.02.2020, when the petitioner reached near Nizampet village, Nizampet road within the jurisdiction of the Kukatpally Traffic Police Station, the 3rd respondent and other Constables who were deployed there to check vehicles and to determine whether the drivers of those vehicles were in inebriated condition or not, stopped him and subjected him to breath analyzer test and alleged that he is in an inebriated state and seized his vehicle, and that the said vehicle is presently lying at the 3rd respondent Police Station in the open space and he was also issued with e-challan mentioning violations under Sections 185(a), 130/177 and 207 of the Motor Vehicles Act, 1988 (for short, 'the M.V. Act'), which are not applicable to drunk and drive cases. The grievance of the

petitioner is that the 3rd respondent has no jurisdiction to detain his vehicle.

4. Learned Assistant Government for Home, on instructions, submits that the petitioner is the driver of the vehicle and on 18.02.2020 at about at 13:33 hrs., when he reached the place near Nizampet village, Nizampet road falling under the Kukatapally Traffic Police Station area jurisdiction, the respondent police stopped and subjected the petitioner to breath analyzer test and found the alcohol reading above the permitted limit and since the driver of the vehicle was not in a position to drive the vehicle and as he did not produce the relevant documents, the police authorities have taken safe custody of the vehicle temporarily and placed the vehicle at the 3rd respondent police station by exercising powers under Section 207 of the M.V. Act. He would further submit that if the petitioner appears before the concerned police authorities with whom the vehicle is in safe custody, along with his proof of identity and relevant documents of the vehicle and on paying the prescribed fine, the police authorities would be release the vehicle to the petitioner.

5. In so far as the police authorities taking custody of the vehicle on the driver being found in inebriated condition, this Court in W.P.No.2361 of 2019 observed that - "Even if the driver on that particular day was unable to drive the vehicle, that does not mean that respondents can retain the vehicle".

6. Having regard to the above said submissions and in the peculiar facts and circumstances of the case, the petitioner is directed to appear before the 3rd respondent authority with proof of

his identity and relevant documents of the vehicle in question. Upon the petitioner approaching the 3rd respondent or other official, who has the safe custody of the vehicle in question and making an application for release of the vehicle together with relevant documents, the said authority shall consider the same and release the vehicle to the petitioner forthwith by collecting fine as prescribed under the M.V. Act for non-production of documents, other violations and also if such vehicle is not involved in any other case.

7. Subject to the above observation, the Writ Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Sd/-M.MANJULA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Department of Home, State of Telangana Secretariat Building, Saifabad, Hyderabad
2. The Commissioner of Police, Cyberabad, Ranga Reddy District.
3. The Station House Officer, Kukatpally Traffic Police Station, Cyberabad, Ranga Reddy District.
4. One CC to Sri Ramesh Kumar Pamidi Advocate [OPUC]
5. Two CCs to GP For Home, High Court for the State of Telangana. [OUT]
6. Two CD Copies

MBC

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HIGH COURT

DATED: 30/04/2020



ORDER

WP.No.5549 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

83 Copies
Sms
18/5/20